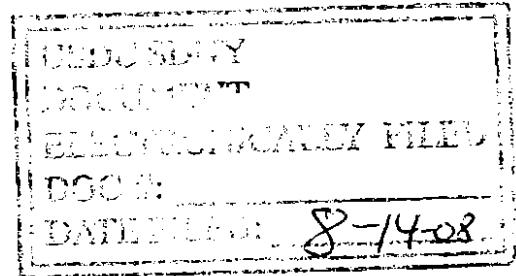


Keenan, J

Norman C. Kleinberg (NK 2735)  
Theodore V. H. Mayer (TM 9748)  
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*Attorneys for Defendant Merck & Co., Inc.*



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
IN RE:

Fosamax Products Liability Litigation

1:06-md-1789 (JFK)

-----X  
*This Document Relates to:*

Franz Martin, et al.

v. Merck & Co., Inc.

Case No: 1:07-cv-9483-JFK  
-----X

**STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE**

IT IS HEREBY STIPULATED AND AGREED by and between

Plaintiff Ronald McBee in the above-captioned case and Defendant Merck & Co., Inc.,

("Merck") through their respective undersigned counsel, as follows:

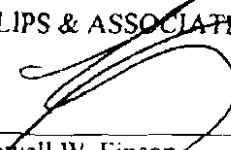
1. This case having been resolved upon the agreement of the above-named Plaintiff to voluntarily dismiss with prejudice his claim against Merck in the above-captioned case and the agreement of Merck not to seek from Plaintiff its fees and costs. The following Plaintiff Ronald McBee is hereby dismissed from the above-captioned case with prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(ii).

2. Each party is to bear its own costs and attorneys' fees.

*Aug 12,*  
Dated: ~~April~~, 2008

PHILLIPS & ASSOCIATES


By

  
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*Attorneys for Defendant Merck & Co, Inc.*

SO ORDERED:

  
Hon. John F. Keenan

*5/14/08*